

House Bill 247 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 113<sup>th</sup>, Shaw of the 176<sup>th</sup>, Roberts of the 154<sup>th</sup>, Stephens of the 164<sup>th</sup>, England of the 108<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to change certain provisions relating to acquisition and construction of water and sewage systems; to prohibit counties, municipalities, and local authorities from requiring connection with or use of water supplied by a public water system except when other water is unfit; to prohibit charges or fees for services made available but not used; to provide for applicability; to provide for exceptions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising Code Section 36-34-5, relating to acquisition and construction of water and sewage systems, as follows:

"36-34-5.

(a) In addition to the other powers which it may have, any municipal corporation shall have the power under this chapter:

(1) To acquire by gift, by purchase, or by the exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better, and to extend any water system or sewage system, or both, within the municipal corporation;

(2) To acquire by gift, by purchase, or by the exercise of the right of eminent domain any lands, easements, rights in lands, and water rights in connection therewith;

(3) To operate and maintain any such systems for its own use and for:

(A) Public ~~public~~ and private persons within the territorial boundaries of the municipal corporation who use the system; or

(B) Persons to whom the system is made available at the property owned by such persons; and

(4) To prescribe, revise, and collect rates, fees, tolls, or charges for the services, facilities, or commodities;

(A) Furnished ~~furnished~~ to persons or users; or

(B) Made ~~made~~ available by such systems to the property owner at such owner's property. When services are available but not used, the maximum rates, fees, tolls, or other charges imposed shall not exceed the minimum charge or fee imposed on a user of such system.

(b) The provisions of subparagraphs (a)(3)(B) and (a)(4)(B) of this Code section shall apply with respect to an individual residential property owner only in the case of a municipality or public water system or project thereof that is exempted from the provisions of subsections (a) and (b) of Code Section 36-60-17.1 pursuant to subsection (c) of such Code section."

## SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"36-60-17.1.

(a) No county, municipality, or local authority shall require a single-family residential property owner or farm served by a private well to connect with or use water supplied by a public water system, except where necessary to preclude the use of water obtained from such private well that is demonstrably unfit for human consumption or other intended use; nor shall it require such single-family residential property owner or farm whose water lines are not connected with such public water system to pay any charge or fee for water supply services made available but not used.

(b) Nothing in subsection (a) of this Code section shall preclude the repair or maintenance of a well serving a single-family residence so as to meet the requirements for allowing continued use of the same by a single-family residential property owner or farm without connecting to a public water system or payment of charges or fees in accordance with subsection (a) of this Code section. Such repairs shall be the sole responsibility of such owner.

(c) Subsections (a) and (b) of this Code section shall not apply to:

(1) Any public water system having more than a total of 70,000 active service connection accounts or more than 200 such accounts per square mile of total area served;

(2) A public water system with respect to a single-family residential property owner or farm who has been mailed written notice to his or her address of record on the property tax rolls by the appropriate county, municipality, or local authority by certified mail of his or her right to opt out of connecting with such system and paying charges or fees for system services made available but not used, if such property owner did not notify the

1 county, municipality, or local authority in writing on a form provided thereby of his or  
2 her decision to exercise that option within 45 days after mailing of such notice by the  
3 county, municipality, or local authority;

4 (3) Any project of a public water system for which revenue bonds have been validated,  
5 issued, and sold prior to January 1, 2008; or

6 (4) Any public water system funded primarily through a federal or state grant that  
7 contains stipulations in such grant requiring the county, municipality, or local authority  
8 to levy a charge or fee for water supply services made available but not used. For all  
9 state grants, loans, or contracts for services issued on and after July 1, 2007, no state  
10 grant, loan, or contract for services funding any project of a public water system shall  
11 contain any stipulations requiring a county, municipality, or local authority to levy a  
12 charge or fee for water supply services made available but not used or requiring a county,  
13 municipality, or local authority to require single-family property owners or farms to  
14 connect with or use water supplied by a public water system, except where necessary to  
15 preclude the use of water obtained from another source that is demonstrably unfit for  
16 human consumption or other intended use. For the purposes of this paragraph, a federal  
17 grant is defined as money provided directly to a county or municipality. Federal money  
18 provided to a revolving loan fund or to the Georgia Environmental Facilities Authority  
19 or such other mechanism shall not be considered a federal grant."

### 20 SECTION 3.

21 All laws and parts of laws in conflict with this Act are repealed.